



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET, S.W.
WASHINGTON, D.C. 20554

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DA 04-2599

Released: August 20, 2004

**AT&T WIRELESS PCS, LLC, TRITON PCS LICENSE COMPANY L.L.C.,
AND LAFAYETTE COMMUNICATIONS COMPANY L.L.C.
SEEK FCC CONSENT TO ASSIGNMENT OF LICENSES**

WT Docket No. 04-323

PLEADING CYCLE ESTABLISHED

Petitions to Deny Due: September 20, 2004
Oppositions Due: September 30, 2004
Replies Due: October 7, 2004

AT&T Wireless PCS, LLC, a wholly-owned subsidiary of AT&T Wireless Services, Inc. (collectively with AT&T Wireless PCS, LLC, "AT&T Wireless"), Triton PCS License Company L.L.C., a wholly-owned subsidiary of Triton PCS Holdings, Inc. (collectively with Triton PCS License Company L.L.C., "Triton") and Lafayette Communications Company L.L.C. ("Lafayette") (collectively, "the Applicants") have filed four applications seeking approval, pursuant to Section 310(d) of the Communications Act of 1934, as amended,¹ for the full and partial assignment of certain A- and C-Block Personal Communications Services ("PCS") licenses. The Applicants seek Commission consent to exchange PCS spectrum in various markets located primarily in Georgia and North Carolina. As a result of the proposed spectrum exchange, AWP will acquire 5 MHz of PCS spectrum in the Savannah, GA Basic Trading Area ("BTA") and 20 MHz of PCS spectrum in the Augusta, GA BTA. Triton will acquire 10 MHz of additional PCS spectrum in the Asheville, NC, Jacksonville, NC, and Wilmington, NC BTAs.² Consummation of the proposed spectrum exchange is contingent upon the closing of the proposed transfer of control of AWS to Cingular Wireless Corporation ("Cingular"), assuming approval of that transfer of control.³

¹ 47 U.S.C. § 310(d).

² Additionally, the Applicants note that, upon consummation of this transaction, AT&T Wireless "will relinquish all of its equity in Triton" and will no longer have the right to appoint a director to Triton's board of directors. Application, ULS File No. 0001810683, Exhibit 1, at 1 (filed July 21, 2004).

³ See AT&T Wireless Services, Inc. and Cingular Wireless Corporation Seek FCC Consent to Transfer Control of Licenses and Authorizations, WT Docket No. 04-70, *Public Notice*, 19 FCC Rcd. 6185 (2004). AT&T Wireless will be an indirect, wholly-owned subsidiary of Cingular upon consummation of the transfer of control of licenses from AT&T Wireless to Cingular. See *id.*

1.1206(b) as well.¹⁰ We urge parties to use the Electronic Comment Filing System ("ECFS") to file *ex parte* submissions.¹¹

III. GENERAL INFORMATION

The applications referenced herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies. Final action on these applications will not be taken earlier than thirty-one days following the date of this Public Notice.¹²

Interested parties must file petitions to deny no later than **September 20, 2004**. Persons and entities that file petitions to deny become parties to the proceeding. They may participate fully in the proceeding, including seeking access to any confidential information that may be filed under a protective order, seeking reconsideration of decisions, and filing appeals of a final decision to the courts. Oppositions to such pleadings must be filed no later than **September 30, 2004**. Replies to such pleadings must be filed no later than **October 7, 2004**. All filings concerning matters referenced to in this Public Notice should refer to **DA 04-2599** and **WT Docket No. 04-323**, as well as the specific file numbers of the individual applications or other matters to which the filings pertain.

Under the Commission's current procedures for the submission of filings and other documents,¹³ submissions in this matter may be filed electronically (*i.e.*, though ECFS) or by hand delivery to the Commission's Massachusetts Avenue location.

- **If filed by ECFS,**¹⁴ comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.
- **If filed by paper,** the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110,

¹⁰ *Id.* § 1.1206(b).

¹¹ See discussion *infra* Part III.

¹² See 47 U.S.C. § 309(b); see also Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, *Report and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd. 20,604 (2003).

¹³ See Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, 16 FCC Rcd. 21,483 (2001); see also FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd. 22,165 (2001); Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media, *Public Notice*, 18 FCC Rcd. 16,705 (2003).

¹⁴ See Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd. 11,322 (1998).

Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at FCC@BCPIWEB.COM or (202) 488-5563 (facsimile); (2) Erin McGrath, Mobility Division, Wireless Telecommunications Bureau, at erin.mcgrath@fcc.gov, or (202) 418-7447 (facsimile); (3) Susan Singer, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at susan.singer@fcc.gov, or (202) 418-7447 (facsimile); and (4) Kathy Harris, Mobility Division, Wireless Telecommunications Bureau, at kathy.harris@fcc.gov, or (202) 418-7447 (facsimile).

Copies of the applications and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc. in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM. The applications and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The applications are also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>. In addition, applications filed under Parts 22, 24, 27, 90, and 101 of the Commission's rules are available electronically through ULS, which may be accessed on the Commission's Internet website. Additional information regarding the transaction will be available on the FCC's Office of General Counsel's website, <http://www.fcc.gov/ogc>, which will contain a fully indexed, unofficial listing and electronic copies of all materials in this docket. Alternate formats of this public notice (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or send an e-mail to access@fcc.gov.

For further information, contact Erin McGrath, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-2042, or Susan Singer, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at (202) 418-1340.

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I. SECTION 310(d) APPLICATIONS

The following applications for consent to assign PCS licenses granted pursuant to Part 24 of the Commission's rules have been assigned the file numbers below:

<u>File No.</u>	<u>Licensee/Assignor</u>	<u>Assignee</u>	<u>Lead Call Sign</u>
0001810683 ⁴	AT&T Wireless PCS, LLC	Triton PCS License Company L.L.C.	KNLF221
0001808915	Lafayette Communications Company L.L.C.	Triton PCS License Company L.L.C.	WPOK658
50013CWAA04 ⁵	Triton PCS License Company L.L.C.	AT&T Wireless PCS, LLC	WPOK658
0001810164	Triton PCS License Company L.L.C.	AT&T Wireless PCS, LLC	WPWL461

II. EX PARTE STATUS OF THIS PROCEEDING

Pursuant to section 1.1200(a) of the Commission's rules,⁶ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission's rules.⁷

Parties making oral *ex parte* presentations are directed to the Commission's statement re-emphasizing the public's responsibility in permit-but-disclose proceedings and are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.⁸ More than a one- or two-sentence description of the views and arguments presented is generally required.⁹ Other rules pertaining to oral and written presentations are set forth in section

⁴ ULS File No. 0001810683 has been designated as the lead application, and all pleadings and other submissions filed in this matter that pertain generally to the transaction and not to a particular application will be available through this file number in ULS at <http://wireless.fcc.gov/uls/>.

⁵ This application is attached to File No. 0001810164. This application seeks consent for the assignment of licenses, from Triton to AT&T Wireless, currently held by Lafayette. As background, Triton proposes to assign 15 MHz of C-Block spectrum in the Savannah, GA BTA to AT&T Wireless. Triton currently holds this 15 MHz of spectrum, under call sign WPWL461, in 10 of 19 counties. Lafayette currently holds this 15 MHz of spectrum, under call sign WPOK658, in the remaining 9 counties. Triton will acquire WPOK658, and then assign both its WPOK658 and WPWL461 to AT&T Wireless. Accordingly, the Applicants have filed (1) an application seeking authority to assign WPOK658 from Lafayette to Triton (File No. 0001808915), and (2) a manually-filed application to assign WPOK658 from Triton to AT&T Wireless (File No. 50013CWAA04). Since the application assigning WPOK658 from Lafayette to Triton remains pending before the Commission, the license is not shown as belonging to Triton in ULS. Thus, this application was filed manually with a request for waiver of the ULS electronic filing requirement, pursuant to section 1.913(b) of the Commission's rules. 47 C.F.R. § 1.913(b). We grant the parties' request for waiver of the ULS filing requirement.

⁶ 47 C.F.R. § 1.1200(a).

⁷ *Id.* § 1.1206.

⁸ See Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings, *Public Notice*, 15 FCC Rcd. 19,945 (2000).

⁹ See 47 C.F.R. § 1.1206(b)(2).